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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,902	10/06/2000	Joaquin Feria	10022/46	2958

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EXAMINER

SHAFFER, ERIC T

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/680,902

Applicant(s)

FERIA ET AL.

Examiner

Eric T. Shaffer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2000 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is an initial Office Action upon examination of the above-identified application on the merits. Claims 1 – 16 are pending in this application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 – 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Robert Rachlin's "Handbook of Budgeting".

As per claim 1, discloses a method for determining and analyzing the cost for supporting each user of an information technology system, the method comprising:

obtaining base costs (page 6.41, paragraph 4, "selection of the base for activity depends on the activity that determines measures production effort and cost relationships")

obtaining ongoing direct costs (page 6.1, paragraph 3, "direct material is material that is used directly in the product. Direct labor is the labor directly identified with producing a product");

obtaining ongoing indirect costs (page 6.1, paragraph 3, "manufacturing overhead costs are those indirect manufacturing costs necessary to the manufacturing process");

gathering information relating to user profiles and organizational characteristics (page 29.10, exhibit 29.5);

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inputting said costs and information into a computer program to determine the cost for each user (page 29.11, exhibit 29.6).

4. As per claims 2 and 8, discloses a method wherein said base costs include design costs (page 18.4, paragraph 2, "Marketing, design, manufacturing, costing"), acquisition costs (page 18.5, paragraph 1, "requisitioner, purchasing, supplier, receiving"), and installation costs (page 14.31, paragraph 4, "set up or get ready time required to make products").

5. As per claims 3 and 9, discloses a method wherein said ongoing direct costs include production control costs and monitoring costs (page 14.49, paragraph 1, "the full implication of cost for quality-control activities"), security management and failure control costs (page 14.51, paragraph bullet 12, "excess costs, such as overtime, machine downtime, and materials and supplies wasted"), changes in upgrade costs, support costs, and operational costs (page 24.3, paragraph 2, "a quantitative budget of operating and capital expenditure requirements").

6. As per claims 4 and 10, discloses a method of claim 1, wherein said ongoing indirect costs include end-user costs and downtime costs (page 14.51, paragraph bullet 12, "excess costs, such as overtime, machine downtime, and materials and supplies wasted").

7. As per claim 5, discloses a method of claim 1, wherein at least one of said costs correspond to at least one information technology function (page 17.5, paragraph 1, "payroll also must be defined from both a systems and a business perspective"), and the cost for each user is broken down according to said information technology function (page 17.1, paragraph 3, "expense data are often tracked by cost per payment or annual cost per employee paid").

8. As per claim 6, discloses a method for analyzing the costs associated with supporting an information technology system, the method comprising:

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obtaining cost information (page 32.13, exhibit 32.7);

obtaining system characteristics (page 32.5, paragraph 1, “there are several factors that dominate the microcomputer environment. In this section, we discuss the four major ones: software, memory, speed and peripherals”);

calculating appraisal metrics based on said cost information and said system characteristics (page 16.10, paragraph 6, “variance analysis provides useful information for making decisions because it helps provide into why the actual results differ from the planned performance. A variance is a performance gap between the benchmark generally the budgeted amount and the actual results”);

comparing said appraisal metrics with established benchmarks (page 31.9, paragraph 4, “the benchmarking process compares performance to other organizations, either internally or externally”).

9. As per claim 7, discloses a method pf claim 6, wherein said cost information includes base costs (page 5.9, paragraph 2, “committed fixed costs are those that relate to the basic framework of the company”), ongoing direct costs, (page 5.9, paragraph 8, “direct costs are those costs that can be clearly identified with the cost objective”) and ongoing indirect costs (page 5.9, paragraph 8, “indirect costs are costs that cannot be clearly identified with a single cost objective and therefore must be allocated among the various cost objectives”).

10. As per claims 11 and 12, discloses a method of claim 6, wherein said system characteristics and appraisal metrics include financial characteristics (page 17.10, paragraph 2, “to calculate payroll-processing costs, one must post the annual depreciation or lease cost, “”), operating and efficiency characteristics (page 17.10, paragraph 2, “calculate the percentage of

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central processing unit CPU cycles, input/output, and disk space utilization for the payroll application”), and infrastructure and evolution characteristics (page 17.11, exhibit 17.9, “mainframe, midrange, personal computer”).

12. As per claim 13, discloses a method of claim 12, wherein said financial perspective metrics are based on said financial characteristics and said cost information (page 17.17, exhibit 17.13”).

13. As per claims 14 and 15, discloses a method wherein said appraisal metrics and said cost information correspond to a plurality of information technology function categories (page 17-15, exhibit 17.12, “on-line data validation, employee on-line entry of data, automated exception reporting of time, access to on-line information by employees”).

15. As per claim 16, discloses a method of claim 14, wherein said metrics are used to determine cost improvement opportunities through best practices implementation for said category (page 17.1, paragraph 4, “best practice companies are emphasizing standardization, simplification, re-engineering, selective automation, effective use of technology, and partial to full outsourcing as ways to improve performance and reduce operating costs”).

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Conclusion

16. No claims were allowed and all claims were rejected.

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McCormick (US 5,893,082) – Construction industry cost estimation system.

Lewis (US 6,546,506) – Uses COCOMO

Doyle (US 5,233,513) – Business modeling software system.

Project Management, Kerzner, Harold, Van Nostrand Reinhold, 1995, Fifth Edition
pp.758-765.

Software Engineering, Vrije Universiteit, Wiley & Sons, LTD, 2000.

18. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric Shaffer whose telephone number is (703) 305-5283. The Examiner can normally be reached on Monday-Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
Washington D.C. 20231

Or faxed to:

(703) 746-7238 [After Final communications, labeled "Box AF"]

(703) 746-7239 [Official communications]

(703) 706-9124 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.

ETS
August 25, 2003

Susanna Diaz
Susanna Diaz
Primary Examiner
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